P 75-99

G. R. S. IX-5]

Previous references.

1897-98
~~191~~ .
(12)

File No. 63-9

Serial Nos. 1-5

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-5

Part B for July 1899

SUBJECT.

Appeal of Nadda Mudaliyar re. the registry of a portion of Survey No. 18 in Mattapadahally, Tumkur Dt.

W D 1250—GPB—30,000 28-1-19

Countersigned

Plt No 2309 2497

(1)

The anomaly that a party who has a Sale-deed (though not registered) should fare worse than one who has no document of title was pointed out by the Bd Comrs of Inland Revenue in 1895 & the Bd Comrs's letter was circulated in the Rev Branch of Survey for info & other Bd Comrs. It is not known in what stage the matter is. If necessary it will be ascertained from the Rev Branch

In certain recent cases decided by the 2nd Council as to whether para 8 of Rule XXVII of the LR Rules does not go beyond the provisions of the LR Code & is not therefore ultra vires. The provisions regarding the transfer of registry are contained in Sec No 67-70 of the LR Code & the broad rule adopted by the Council is that the transfer can be effected only with the consent of the occupant of land, the

Please let me see this

Rev Branch

Merge file up the resp
applications connected with
1/My 23/4/25 paras 8 & 10 of
Rule XXVI of the
LR Rules.

decree of civil Court or on the
death of the Occupant & under the
rules of Succession. In this connection
2 Rule XXVI has also to be held as ultra vires.
It may be noted here that-
para 1 of Rule XXV of the
L R Rules allowing Jonit
registry has been held in recent appeal cases
ultra vires & opposed to Sec 68
of the 2 R code & has not
been given effect to

= Rules XXV & XXVI of the 2 R.
Rules seem to have been
taken with modifications from the Stamp rules
of the Board of Revenue (Madras)
but there is no statutory enact-
ment on this subject to conflict with

Sub Dy Regr Coimbatore
Eastern Division
19/4/98

are recorded
ruling on the
point?

x S.O. No 20 of Addl Dy Registrar
Cad's Order

In any discussion
on the Stamp Rule
regarding the Stamping
Machine of Prints, may
discussion on the Madras
Govt Act.

22/4/98

Put up also the
Amended 2 R. Rules

20/4/98

(1)

Resht^d to Rev Councillor
Chester Sb

Query (1). This file is said to have been sub^d to the Councillor on 10/5/98 by the Rev Brandt

Query (2) The file in this case (Appeal No 104 of 1896-97) is not^d. Reference is invited to the 2nd Councillor's remarks below the precis & the order finally passed

Query (3). The Mamlatdars' Act does not contain any provision on this point. Here the pet^r claims to be in possession & the object of the Act is to restore possession. As regards the question whether corresponding rules exist in Bombay under the Code, I beg to submit that the law is fully discussed in the file referred under Query 1.

Col Grant says that the absence of such rules is much felt by the Bombay Govt.

20/5/98.

Rec'd 21.5.98

Pet no 2960.

1a

Sub to pet comrs

Records in Appeal in

No ~~57 of 18~~ 163 of 1892-93

(T no 57 of 1893-94) are put

to.

1). If the DS comrs' order

in Muddu Swamy's case

has to be reversed, it will

have to be done after hearing

same to be done after hearing

in c-pet to be filed by 2 commrs.

The case comes under clause

(d) of Sec 221 of the LR Code

& is hence a "contract case"

8/9/95

9787

Mandis. I have explained

to the petitioner present

in person. Mandis and his

other Counsel to put in

their appearance by 2nd October

next.

7/9/98.

All pr records with report.

& post for hearing

9/9/95

1. Re put up

Blue

10/9

Precis.

Petn No. 2309.

Petnr. Irudda Maisty of Guttagadahalli Tumukur S. Mk. Tumkur Dt.

Subject:- Appeal against the order of the Dy: Commr, &c- the Registry of portion of land S. No 18 of Guttagadahalli, Tumukur S. Mk.

Facts of the case are:—

1. On 20-11-96 Irudda Maisty, wife of Hale Chowda Kempa Linge Gowda, filed a suit in the Dy: Commrs Court for the transfer of the patta of a portion of land S. No 18, measuring 2 acres, 12 guntas and assessed at Rs 2-8-a to his name from that of one Byra, on the ground that he bought the land on 25-3-1881

executing a sale-deed, that he had paid the kandayam from 1883 to 1893 and has been in the possession and enjoyment of the land since 1881.

2. Upon this the Dy: Commr ordered that notices might issue to the defendants & the inhabitants of the village, to shew cause why the patta of the above dry field should not be made in the name of Mudda Mudaliy; & notices were issued on 9-12-96.

Byra & his step-mother Lempi.

3. On 3-3-97 the defendants raised objection and Byra gave a written statement* to the Dy: Commr to the following effect:-

"That Byra is aged 20 years, that his father died during the famine & death & Ishwara leaving two wives of whom the younger the mr of Byra also died & ince then Byra is under the protection of

*On 3-3-97 through his pleader Mr Narayen Iyengar.

his step-mother Kempi the elder wife; that Kempi gave a portion of A. Nº 15 for cultivation on mara tenure to Mudda Maisiry some 10 or 11 years back before going to Chalia halli, with mine Byra, from which place she returned only 2 or 3 years ago; that Mudda was cultivating the land properly, giving them mara paying Kandayam out of the money sent to him by Kempi annually; that since his return Byra has been paying the Kandayam; that having taken possession of the land the previous year from Mudda, Byra had given grain in the year 87/7; that the sale deed was not a genuine one & that for the above reasons the plaintiffs application for transfer of patta should be rejected with costs in favour of the defendants.

* Mudda Maisiry's.

4. Whereupon the case came on, for hearing, before the extra Asst Commr on 25-5-97, being referred to him by the Dy: Commr on 27-1-97. The Asst Commr examined three persons.

Rundia Bairagi, the Plaintiff
Varadiah, the Shanbhag
Byra, the Defendant

5. The 1st deposed as follows:- "On 25-9-1881, Byra & his Step-mother Kempi executed the Sale-deed to me. I do not know what Byra was aged then, nor do I know his present age. However he was not a minor at the time of writing the document. I do not know why Kempi's name forms an interlineation. I have paid the Kandayam for the years beginning from 1882-83 to 1894-95 & taken receipts from the Shanbhag. The land has been in my possession & enjoyment ever since it was bought."

Rundia the Plaintiff.

6. The 2nd deposed as follows:-

Varadiah, the Shanbhag.

11. S. No. 15 is in the name of ~~Kunda~~ Byra. By clerical error it is put down in the patta granted to him in the year 1895-96, as No. 11 instead of No. 15. From 1882-83 to 1895-96, Kunda was paying the Kandayam. Byra paid the Kandayam for 1896-97 to 1896. Since 1882-83 Kunda has been enjoying the land. Last year Kandayam was (?) by the but Byra being the Eldest (?) received the Kandayam from him, for that year as also for the current year. Till year before last Byra & Kempi were living in Chal-halli, Nagamangala Taluk; they came to Hunagadahalli only last year. I have only heard his mother say that four years back, Kunda Gowda gave it, but I have not seen him give it."

7. The 3rd said as follows:-

* Kunda & Kempi.

* Raja.

* Byra, the defendant.

The document* may have been written when I was a minor & not after I attained any majority. On the authority of this document the 1/2 half of land S. No. 13 which is in my name should not be changed to that of Gundia Gaudru's.

8. On these evidences the Asst. Comm.# ordered as follows:— "There is no doubt that Gundia Gaudru has been enjoying the land since 1882-83. It is plain from Chandhuy's statement that Gundia has paid the kandayam from 1882-83 to 1893-94 & that the kandayam for the 3 years 1894-95 & 95-96 has been paid by pattadar Rajo. Gundia says that he has been enjoying the land as per the sale-deed of 25-9-85, which is not registered. The step-mother's name forms an inter-

* Sale-deed executed on 26-11-1881.

* 25-6-97.

- lineation of it can be plainly said that Ayya was a minor at the time of the execution of the sale-deed. He is illiterate & for the foregoing reasons patta cannot be ordered to be changed. Enjoyment is based on this document. As he has been enjoying the land since 1882-83, this order does not in any way interfere with his enjoyment. Kudda Maisty & pattadar may go to Civil Courts to establish their respective rights to the land."

Kudda.

9. On 20-1-93 Kudda Maisty applied to the Hy. Commr praying that the Kandayam of the land S. No 18 should be recovered from him, as the land was declared by the Asst Commr to be in his possession and enjoyment, The Hy. Commr endorsed on the petn, that it was plain

* addressed to Hy. Commr by mistake.

X. No 207 of 27-1-93

that Khale had been in the name of Bysa & that so long as it was not changed the Kanday am should be recovered from him alone.

10. The present appeal of Ruddra Naiky praying for the transfer of patta to his name & for the recovery of Kanday am from him, is against this order of the Dy: Commr on the following grounds:—

1. That the land has been in his possession from 1881-82 to 1897-98 as per the sale deed of 25-9-1881.

2. That the Defendants, being instigated by the patel & Shanbhag have refused to get the patta transferred & have been paying the Kanday am since 1895.

3. That while the last Commr has referred the parties to the civil court,

the Dy. Commr. order, refusing to take the Kanda-yam from the Relts., (in whose possession & enjoyment the land is) on the ground that the Khalé is in another's name, has given rise to much dissention, trouble & loss to the parties.

4. That the plea of the defendant being a minor is not maintainable, in as much as he had remained silent for 7 years after attaining his majority.

11. On 13-9-98 the Dy. Commr's report was called for, which was submitted to this office on 26-1-99.

Sm
27/4/99.

* By la.

* by O.M. No 245 dt 3-5-98.

* No 468 dt 26-1-99.

Before the Government of Mysore.

Appeal No. 16 of 1898-99

Appellant.	Vs.	Respondents
Rundla Iranna		(1) Byra (2) Kempamma

Subject:- Dispute regarding the transfer of Patta of a portion of S. No. 18 of Huttigadahalli, Survekere Sub-Taluk.

Posted for hearing
on 3rd July 1899.

Subs to 1st Committee BR 6.6.99

1145 Seen. BR 6-6-99

For what case
was such deed
& regr. carried?
Who is now in posn
& upon what
title has the Hutchant
& applt no objn — then
how long Rundlapa
& Chikkappa
& D. — any of the
subsequent purchasers
& applt or heirs
who did upon what
title

BR

Applt. & Chikk.
Ex 1 Regd in 1
Khata for
in Entr & Chikk.
by 1 of Kempa
the Khata
& Entr. stood
in Chikk.

4-7-99 MCH

BR 7/7/99

Before the Government of Mysore.

Appeal No. 16 of 1898-99.

Appellant.	Vs.	Respondents
Munda Puvaiah		(1) Boya (2) Kempamma

Notices served. 2nd Respt not to be found. She has remarried and lives elsewhere.
3 - 7 - 99.

Appt by Mr Ayyangar

4/7/99.

Appt absent
Respts present. Dismissed with costs of 1st Respt.
Dy Commr's order upheld.
4/7/99.

L12-63-1921

189 S

3 Sch. A No. 1C

98

Name of Petitioner Allidas Sun

Village Allinagadasan

Taluk Tarikere

District Tumkur

Date of Arzi ?

Date of Receipt 14.3.98

Date of Disposal

No. of Enclosure

Abstract

Appeal against order
dt 20-2-98 of the A
C Tumkur & that of the
Extra Spl Commr Tumkur
dt 20-5-97 in
re the partn of survey
No 78 of Anthagadahalli
Tarikere Sub-Taluk
made in the name of
the petitioner -
& Extra Spl Commr in
his order dated 20-5-
recorded as follows:-
There is no dispute

Subd
Petr is not present
by the pet-
18 Petn for hearing
may be
11.4.98
Petr's advocate
Adjd
11/3/98
Petr's advocate present
3-98

1) Jn time
2) Stamp sufficient
3) Appeal against R Comm's order
declining to hear the reports
of Surv 18 of Anthagadahalli
& the Byri made by the petr
4) Council says
The petr does not
the ground that he has been
represented & has paid kandayam
& taxes, for more than 12 years.
He has a document of title which
not registered. Under the interpretation
he stands fixed on Jan 1st 1908
Rule XXVI of the L R Rules, the pet
... not fulfil ...

Pandia Pandey has been
Enjoying the land in question
since 1882-83- He had also
been paying the Kandayam
for that land upto 1893-94
From the Karnavar's statement
it is evident that 2 Subsequent
years Kandayam was paid
by Byra the patteldar-
Pandia Pandey states that
he had been enjoying the lands
in accordance with the sale
deed alleged to have been
executed by patteldar Byra
this dept Mother Kanyamma
- 25-9-1851- The sale deed
is not a registered one - The
name of the dept mother is
written in line - It can
plainly be said that patteldar
Byra was a minor when
the sale deed was executed
Besides it is illiterate - The
Change of patta cannot be
ordered relying upon this
document - The Enjoyment

2 Petn. No: 2309

is based upon this docu-
-ment. As the Engineer
of the Canal is continued
from 1882-83, this order
cannot be held to be a
bar for such Engagement.
If under Section 144
the, Petitioner may
Name be sent, redress
in a Civil Court of the
Petitioner may do likewise
if he wants the Execution
Engagement of the land
the petitioner, first in the
application dated 26.1.9
to the Asst: Collr: who
him in Enl: No: 20 of
which, runs as follows:-

"That after so he in
Byrai Name - till the
Lease is changed from the
Name Kandaya Nath
be removed from him"

The present appeal is
against the above order

on the following grounds:-

(1) That he has been the peaceful occupier of 2 acres, 3 roods of land affected by Survey No. 13 of Nuttagara-Ruily, Tirumalai Taluk from 1931-32 to 1934-35 in accordance with a sale deed the Kanda being in the name of Rajan son of Chinnana-

(2) That the resp. Byrava his step brother though often demanded to have the said transferred in his name refused, purposely & deceitfully with, Patail & Shanbog who unanimously suggested the respts to pay the Kandayam they also said that they would, get the possession of the lands in their favour of the respts. The petitioner-petitioner prefers a complaint in accordance with Sec. 77 of the Rev. Code, pages 8-10

Pet. Evidence

3

paras 8-10 of Pet. &
Affs. Com. Rules - Petitioner
& Com. who held
a regular inquiry directed
each to the Civil Court
to ascertain his claims and
of directing the petition to
be made in the name
of the petitioner

(3) That under Sec. 21 - Sub
of the Def. Com. Act, declining
to accept inadequate fee
the petitioner in the guise
of the estate being in the
name of another individ-
ual, has subjected the
petitioner to unnecessary
trouble & loss.

(4) That the allegations
have brought about
confusion by the defend-
trespassing upon the
lands

the petitioner in his
turn. Notwithstanding
Besides the grant of title
to the defendants by the Sanad
in 1893-96 & Shanthaja
receiving Kandayam from
the defendants & the Sanad
is at the bottom of all this -
(5) That while the petitioner
offered the Kandayam
to the Patil, in presence
of witnesses, the Sanad
who was present at the time
spoke indecent words &
declined to receive Kandayam
from him & accepted the
same from the petitioner
contrary to Custom -
The petitioner also receives
receipts for various payments -
(6) That the plea of the
defendants being a minor
is not maintainable
in as much as he had
remained silent for years
after attaining his majority -

Petn. for stay

4/ 6) That the said authority have rejected, refused to accept the Kaichuri remitted by the petitioner by postal money order thereby giving ample room for the present petition

Pray that orders may be issued, to have the petition made in the name of the petitioner, that the Kaidiyam may be summoned & that the petitioner may be ejected to the Court to ascertain his claim if any-

CB 21/3/98

The, enclosures accompanying the petition are:—

(1) Copy of the Commissioner's order dt. 25-3-97

(2) petition with Dy. Commr's Endt. dt. 20/3 & 27-1-98

CB 21/3/98

COURT FEE RUPEES 10-3-0 EIGHT ANNAS

COURT FEE RUPEES 10-3-0 EIGHT ANNAS

COURT FEE RUPEES 10-3-0 EIGHT ANNAS

2304

COURT FEE RUPEES EIGHT ANNAS

3

7

8

9

Yours

For Secretary

2497

[illegible]

[illegible]

[illegible]

2497
7-11-83

Oct 245 1/2

14-9-98

MYSORE DEWAN'S OFFICE.

PETITION DEPARTMENT.

LR 63-97-2

OFFICIAL MEMORANDUM.

The accompanying Appeal Petition

No. 2319 dated 10th 4 98

received at the Dewan's Office from

Hudda Basti of Shettigadahalli

Kunigal Taluk, praying against

the Sanction by Govt under

declining to transfer the registry

of S. No. 18 of Shettigadahalli from

one Eyra's name to the Petitioners

is forwarded, together with its two

enclosures, to the Deputy Commissioner

of the Tumkur District

for submission of the entire proceedings

connected with the case, together with a

full report of the facts of the case, and on

the points urged in the petition.

2. The petition with its enclosure

should be returned.

By order, &c.,

Chief Secretary.

BANGALORE, 13th September 1898.

16

Bln

I.G.C.P.B.—25-4-95—1,000

REVENUE DEPAR
G.L.No. 4621
JAN 31 98
E-No. 250 1898
FRANCISCO

15
2-99

1-99

R

Reporting Commissioner
Inland Revenue.

To The Commissioner of Customs
Controller of Customs,
Deputy &c.

Dated 26th January 1899

Despatched 28th January 1899

Received

General No. 468.
No.

LR 63-97-3

Enclosure No. 2 files

Re Official Circular
No 00 dated 24th
13th September 1898.

—o—

Reporting on the
petitions & memorials
against the Importation
of Rabbits &c.

Sir,

Refer
30-1-99

Rec'd
31/1

Reporter
W Court

AC
31/1/99

'99

Office of the Deputy Commissioner
Tumkur District

Dated camp Maddagiri 26th January 1899.

To.

The Secretary to the Government
of Mysore
General and Revenue Departments.

Sir,

With reference to your Official memorandum No. 245/Rev dated 13th September 1898 calling for a report on the petition of Muddu Mestri of Muthagadahalli in the Turuvekere Sub-Taluk appealing against my order dated 27th January 1898, I have the honor to state as follows:—

2. On 20th September 1895 Petitioner Muddu Mestri applied for the transfer in his name of the Patta of a portion of Survey number 18, 2 acres and 13 guntas in extent and assessed at Rupees 2-8-a, standing in the name of one Bayya, on the strength of an unregistered Sale deed dated 25th September 1851 and possession and enjoyment since that date. The 1st General Assistant Commissioner to whom the Petitioner's application was referred for disposal referred the Petitioner to the Civil Court vide his order dated 25th May 1897, against this order

Petitioner did not appeal to me, but during the Commissioner's visit to Tarluk in January 1878, he presented a petition to me (note. the petition is wrongly addressed to the Deputy Assistant) praying that orders might be issued to the village authorities to receive the kamdayem of the land in question from him. In reply, he was informed that so long as the Batta stood in the name of Bipra, he (Bipra) would be allowed to pay the kamdayem. It is against this order that Petitioner now appeals to Government.

3. The vernacular papers connected with the petition are herewith submitted.

I have the honor to be

Sir,

Your most obedient Servant

Mirkasim Rad

Deputy Commissioner

Dhanbad districts.

(5) Proc. of the Court. Pattayya

LR 63-99-4

Appt

Muddamaiahy

Respts

(1) Byra

(2) Kempanna

Read:-

Petition of appeal No. 2309 of as to
1898-99 presented by Mudda Maisiny of Muthu-
gadahalli village in the Tarvekere Sub-Taluk,
against the order of the Assistant Commr. Tarikere Divn. dt.
declining to issue an
order directing the recovery
of the assessment of a portion
of S. No. 18 in the said village
from the appt. as the
registered Ryot in the
name of the 1st Respondent
Byra.

(2) Letter No. 468 of 26-1-99
from the Dy. Commr. reporting
on the above
(In Extenso)

(3.) Records of the case

Order thereon

The case is posted for disposal on 20.7.99.

Dupl. for appt.
Sd/- T.S. Comr. Advocate
14/7/99

11/7/99
Advocate
on behalf of
appt
13/7/99

Sd/- for 2nd Comr. Advocate
14/7/99

R.O.B.
14.7.99.

639-46
P.F. 5-99 20.7.99.
21

[illegible] respondent to the
Kundgram, he is entitled
to make payment of the
Kundgram. The Dy Commrs'
order is confirmed and
this appeal dismissed.

Draft
C/C 2

Secretary

Do

The Dy Commr Dumka
Do & with the records

The Dy Commrs of this Dist

[illegible]

15/7/99

21-7-99

(5)

1899-1900

GOVERNMENT OF MYSORE

PETITION

PROCEEDINGS

Dated 20th July 1899

No. 639-46
Pet. F. 5-99

Dismissing the appeal of Mudda, mestri, of Muthugadahalli, Turuvekere subtaluk, against the Deputy Commissioner's order declining to issue an order directing the recovery of the assessment of a portion of Survey No. 18 in the said village from the appellant.

SBP—29-7-99—200

Proceedings of the Government of Mysore, Petition, dated 20th July 1899.

Appellant.		*Respondents.*
Mudda, mestri.	*versus.*	1. Byra. 2. Kempamma.

READ—

Petition of Appeal No. 2309—A. S. 16 of 1898-99, presented by Mudda, mestri of Muthugadahalli village in the Turuvekere sub-taluk, against the order of the Deputy Commissioner, Tumkur district, declining to issue an order directing the recovery of the assessment of a portion of Survey No. 18 in the said village from the appellant, as the registry stood in the name of the 1st respondent Byra.

(2) Letter No. 468, dated 26th January 1899, from the Deputy Commissioner, Tumkur district, reporting on the above.

With reference to your Official Memorandum No. 245—Pet., dated 13th September 1898, calling for a report on the petition of Mudda, mestri of Muthugadahalli in the Turuvekere sub-taluk, appealing against my order, dated 27th January 1898, I have the honor to state as follows :—

2. On 20th September 1896, petitioner Mudda, mestri, applied for the transfer in his name of the patta of a portion of Survey No. 18, 2 acres and 13 guntas in extent and assessed at Rs. 2-8-0, standing in the name of one Byra, on the strength of an unregistered sale deed, dated 25th September 1881, and possession and enjoyment since that date. The 1st General Assistant Commissioner to whom the petitioner's application was referred for disposal referred the petitioner to the Civil Court *vide* his order, dated 25th May 1897. Against this order petitioner did not appeal to me, but during the jamabandi of the Turuvekere sub-taluk in January 1898, he presented a petition to me (*Note*—The petition is wrongly addressed to the Deputy Amildar) praying that orders might be issued to the village authorities to receive the kandayam of the land in question from him. In reply, he was informed that so long as the patta stood in the name of Byra, he (pattadar) would be allowed to pay the kandayam. It is against this order that petitioner now appeals to Government.

3. The vernacular papers connected with the petition are herewith submitted.

(3) Records of the case.

No. 639-46—PET. F. 5-99, DATED BANGALORE, 20TH JULY 1899.

ORDER THEREON.—The unregistered sale set up by appellant is denied by 1st respondent, and although the sale is said to have taken place in 1881, the application for the transfer of patta was not made till 1896, nor has it been accompanied by the consent or written relinquishment of the alleged vendor. The 1st respondent not only denies the genuineness of the sale-deed, but also alleges a temporary lease of the land on wara to appellant. The dispute between the parties is of a civil nature and cannot be adjudicated upon summarily by the Revenue authorities. As both the parties have not presented a joint application for transfer of the patta as required by law (Section 71, Mysore Land Revenue Code) the application of the appellant *alone* has been properly rejected, and so long as the 1st respondent continues to be the registered kathedar, he is entitled to make payment of the kandayam. The Deputy Commissioner's order is affirmed and this appeal dismissed.

C. SREENIVASIENGAR,
Secy. to Govt., Gen. & Rev. Depts.

To—The Deputy Commissioner, Tumkur District, with records.
The Deputy Commissioners of other Districts.

Exd.—H.A.R.

(4)

LR 63-97-S

[illegible]

[illegible] 18. 7. 1899 [illegible]

By Order

[illegible signature]

For Secretary

[illegible]

[illegible] 18. 7. 99 [illegible]

By Order

[illegible signature]

For Secretary

Draft
[illegible]
189[illegible]